

**BOROUGH OF WESTWOOD  
ZONING BOARD OF ADJUSTMENT  
REGULAR PUBLIC MEETING  
MINUTES  
February 4, 2008**

**1. OPENING OF THE MEETING**

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL:**

**PRESENT:** Raymond Arroyo  
Dan Koch  
Joseph Frasco, Vice-Chairman  
William Viethier  
Eric Oakes  
Guy Hartman  
Christopher Owens (Alt #1)  
Michael Bieri (Alt. #2)  
William Martin, Chairman

**ALSO PRESENT:** David Rutherford, Esq., Board Attorney  
Louis Raimondi, Maser Consulting, PA  
Board Engineer  
Steve Lydon, Burgis Associates  
Borough Planner

**ABSENT:** None

**4. MINUTES** - Minutes of 11/5/07, 12/3/07 as amended and 1/7/08 as amended were approved on motions made, second and carried.

**5. CORRESPONDENCE:** As listed on Agenda and read:

1. Letter from David Rutherford, Esq. RE: 1/22/08 RE: Buldo Container;

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2. Letters from Maser Consulting dated 1/7/08 RE: Boenigk, 1/8/08 RE: Paragon Federal Credit Union, and 1/21/08 RE: Water Works;

3. Letter dated 12/31/08 from Clerk's Office RE: Ordinances;

6. **VOUCHERS:** A motion to approve vouchers totaling \$7,940.41 was made by Mr. Frasco, seconded by Mr. Vietheer and carried unanimously on roll call vote.

7. **RESOLUTIONS:**

1. **Nanard Enterprises-Appeal of Zoning Officer's Decision**  
Mr. Rutherford gave an overview of the Resolution of Approval to Overturn the Zoning Officer's Decision. A motion for approval of the Resolution was made by Mr. Oakes and seconded by Mr. Vietheer. There were no further questions, comments or discussions. On roll call vote, Mr. Arroyo, Mr. Hartmann, Mr. Oakes, Mr. Vietheer, and Mr. Martin voted yes. The remaining members were not eligible to vote.

2. **Daniel Comer, 401 Fourth Avenue - Additional and Detached Garage** - Mr. Rutherford gave an overview of the Resolution of Approval. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Koch. There were no further questions, comments or discussions. On roll call vote, Mr. Arroyo, Mr. Vietheer, Mr. Koch, Mr. Frasco, Mr. Oakes, and Mr. Martin voted yes. The remaining members were not eligible to vote.

8. **PENDING NEW BUSINESS:**

1. **Phil Petrina, 118 3<sup>d</sup> Avenue - Proposed Sunroom addition** - Scheduled for 3/3/08;

9. **APPEALS:** None

10. **VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETATIONS**

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

The Board Professionals were sworn in

1. **Pathan, 33 High Street - Land Use and Development** - Carried to next meeting;

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**2. Pavese, 615 Broadway - Use Variance** - Carried to 3/3/08 at request of applicant.

**3. JP Morgan Chase - Preliminary and final Site Plan and Variance Application** - Scheduled for Special Meeting on 2/25/08;

**4. George & Virginia Boenigk, 123 Lafayette Avenue- in ground pool/fence** - Applicants continued under oath. Drainage calculations and a revised plan were received. Mr. Raimondi explained that prior to this evening he received a report from their engineer which answered most of the questions in his letter dated 1/7/08. There were a few minor calculations that he wanted him to check. This evening he received a set of drainage calculations with minor issues left open. The plan proposed to eliminate the underground detention system and provide a seepage pit to Lafayette Avenue.

Mr. Lydon discussed the variances for the standards for a pool: impervious coverage, and 15' setback requirement, requiring 4' side yard and rear yard pool setbacks.

The matter was opened to the public, and the following persons came forward: Marilyn Farrell, 131 Lafayette, Max Colognori, 26 Cardinal Lane, Louis Maze, of 20 Cardinal Lane, Rosina Colognori, of 26 Cardinal Lane, and Joseph Soto, 137 Lafayette Avenue. Ms. Farrell stated she lives adjacent to the subject site, and her fence separates the two properties. She expressed concern over drainage and the flooding worsening due to additional runoff from the site. Mr. Martin said the Zoning Board does not have jurisdiction over changing drainage. Mr. Raimondi addressed the question and explained this application is proposing to eliminate the underground detention system from when the houses were built and replacing it with a seepage pit, and according to their engineer, he proposed an overflow line to the Musquapsink Brook. This area is not conducive to good drainage. Any change in grade would upset the drainage plan. They were all objecting to the variances and the impact this would have on the existing drainage condition. Mr. Martin asked Mr. Raimondi, and he commented the top of the retaining wall is .5' higher than the patio. Water will flow over to Lafayette. She was concerned about water in her basement. Her backyard is a sponge. Mr. Martin asked the applicants if they would like to address the concerns of the neighbor and perhaps they could make

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the pool smaller or rectangular to meet the requirements of the zoning. Mr. Raimondi said it would pull it away from the property line and reduce the patio. Mr. Martin said he was sure there were other pool shapes that would meet the requirements of the ordinance. Mrs. Boenigk commented it would be small. Mr. Frasco asked Mr. Raimondi if they could make the drainage better. Mr. Raimondi responded the drainage is the drainage; you still have poor ground conditions--you are in a flood plain.

Mr. Martin announced they would carry the matter to 3/3/08 with a redesign of the pool plan. If it meets the setbacks, they are not required to be here. If they do need a variance they could come back on 3/3/08 and see how to eliminate or reduce the variance. Mrs. Farrell asked what about the tank. Mr. Martin said the Zoning Board is only concerned with matters pertaining to the ordinance. That would lie with the Building Dept.

**5. Rockland Coaches, 180 Old Hook Road - Variance -** Daniel L. Steinhagen, Esq. of Beattie Padovano represented the applicant in a continued public hearing and stated revised plans were submitted on 1/25/08. They were on the dais. He mailed them in advance to the Board Attorney and Professionals, who acknowledged receipt thereof. Mr. Martin asked, and Mr. Steinhagen stated the changes were effected on this plan, revised to 1/24/08. He contacted the Clerk's Office and was not able to tack down prior Resolutions due to a flood.

Ken Fox, Architect, 17 Robert Street, explained the changes, which were the height of fence barbwire and treatment of the fence along Pascack Road. Mr. Fox noted their new fence will be within the property line. There is a 6" extension beyond the fence for barbed wire. Mr. Raimondi noted, and he amended the notes regarding posts on the plan. Mr. Martin did not see moving the fence back that fronts Old Hook Road inward, noting they don't seem to be considering this as discussed. Quiet frankly, the Board Members did not get this until tonight, and he would suggest carrying to the March meeting to consider all that was previously discussed. He suggested the applicant's counsel contact the Board's Professionals to come up with the plan. Mr. Steinhagen consulted with his client, and they cannot keep revising the plan. They need move forward. The site is not being used and they can't wait another month. They would like to proceed with this plan as submitted. Mr. Fox was also a

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planner. He would continue his testimony, have the security expert testify himself, and have Mr. Fox return regarding planning issues.

A member of the public, Dan Poland, 222 Westwood Boulevard, came forward and expressed concerned about what the fence would look like from his side.

The next exhibit was marked A4, photos of the chain link fence, which they found to be the best alternative, 8' high, with green, plastic slats.

Ryan McDonald, Active Duty Air Force, doing site surveys and security work, which he does for public and private consultants, was sworn in, qualified and accepted. He does consulting for the security company. He reviewed A1, Security Manual. With regard to the fence, they would address the comments by the Board. Mr. Arroyo questioned the benefit of the fence. The difference in scaling time between a 6' and 8' fence is 30 seconds. Mr. Martin suggested cameras along the fences, which could be 6'. That would be good, as long as whoever is operating the camera can react. Mr. Martin suggested having a lower fence with a heightened electronic presence. The response was it would be millions of dollars of equipment. Mr. Martin would like to see them accomplish this in a way that is not as offensive to the town. Mr. Arroyo commented there is no mitigation to erect a high fence.

Mr. Poland asked how high the fence would be, and they advised him an 8' fence would be better for them in the back. It was indicated that it is already an 8' fence in the back. Mr. Hartman asked if they could use bars instead of a chain link fence. Mr. McDonald said he would have to look at the date for same and didn't know.

Ken Fox, previously sworn, continued under oath. He gave the positive and negative criteria. They spoke with the neighbor and would provide additional evergreens. There are high trees and bushes and an extensive buffer on the hospital side. They feel it is not significantly noticeable. The 8' fence does provide some additional screening, which benefits the neighbor. On the front property line they are asking for a 6' fence without the barbed wire in the front. They feel this is the best for security. They looked at other fences and found this

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to be the best for security and aesthetics. They would like to keep the emergency outlet. They are not creating any detriments. An additional benefit is security and aesthetics, which outweigh the potential detriments. This is a better zoning alternative and a benefit for the immediate neighbors. They are cognizant of the neighborhood and security and ask the Board to consider it as proposed. They ask the Board to consider the application favorably, notwithstanding the dimensional errors on the plan.

Mr. Lydon questioned the applicant. He did not hear any testimony as to why this Board should grant the variance for bared wire. He asked specifically about screening, and the basis for the barbed wire. Mr. Fox said it was for security. Mr. Lydon asked him to describe how the negative criteria carries over to Pascack Road. Mr. Fox did not feel it was negative, and he should not have to show every alternative. Mr. Lydon said he provided positive criteria, but he did not provide negative criteria. The ordinance states that barbed wire is not permitted anywhere in the Borough. Mr. Lydon set forth the variances: height, barbed wire, and front yard encroachment on both the North and South sides.

Mr. Raimondi asked for the life expectancy for the vinyl. Also, he questioned the note on the trees about equivalent dollar value for trees. It is going to be a dollar value for what is planted on the neighboring property owner. Mr. Martin said these open-ended notes on the plan cause future problems. They needed to be shown and drawn on the plan. This needs to be done now, not after, because over the years the Board has learned that we need to see it on paper. This is the plan, with vagueness and notes, we are not getting another plan, and you want a vote tonight.

Mr. Martin opened the matter to the public for questions of the witness. There were none. Mr. Steinhagen summed up and asked that the Board act favorably on the application.

Discussion by Board Members followed. Mr. Hartman felt that the applicants did not do enough research to the alternative fences available. Mr. Oakes there should be other considerations for the front. Mr. Arroyo felt the back did not get enough attention. This is a substantial variance, in that he cannot even erect a 6' fence where he wants to per our planner. He did not meet the positive and negative criteria on the barbed wire.

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Mr. Martin asked if anyone would want to formulate a motion. Mr. Oakes commented we must weigh that all this is being put in place per Homeland Security. Mr. Rutherford advised this is clearly a C2 application. Any motion or discussion made should address the issues and the content. Mr. Frasco asked if the Board could place conditions other than that which the applicant has drawn. Mr. Rutherford said the Board could always impose conditions that are reasonable and advance the purposes of zoning, but not in designing a fence. Mr. Owens asked if this is denied would we just see a fence without barbed wire. Mr. Rutherford advised the Zoning Officer would have to make a decision on a fence in the front yard exceeding 18".

Mr. Martin asked for a motion. Mr. Frasco commented he believed the applicant could have gone the extra mile, and therefore, he made a motion to deny the application. The motion was seconded by Mr. Koch. Mr. Owens commented he would have liked to see more detail. Mr. Martin commented more could have been done. There were no further questions, comments or discussions. On roll call vote, Mr. Koch, Mr. Frasco, Mr. Arroyo, Mr. Vietheer, Mr. Owens and Mr. Martin voted yes to deny the application. Mr. Oakes voted no. Mr. Hartman and Mr. Bieri were not eligible to vote.

The Board took a recess from 10:40-10:50 p.m.

**6. Fernandez, 45 Ruckner Road - Concrete Walkway Around Pool - Carried to 3/3/08 at request of the applicant;**

**7. JNH Ltd. (Black Biscuit, LLC), 271 Westwood Avenue, Block 808, Lot 11 - Interpretation of Use Variance - Carried to 3/3/08 at request of applicant;**

**8. Piggyback Media, LLC, 160 Tillman Avenue, Block 2209, Lot 3 -** Holly Schepisi, Esq. represented the applicant. Revised plans were submitted, prepared by Sapra Group, dated 11/8/07. The applicant, Ms. Ham, 758 Tiffany Avenue, River Vale, described the intended use as Cosmic Pong, an indoor play center for children. She quit her job two years ago and with four boys, finds there is no place to bring them to play in the area. The purpose is a table tennis club. The center is about 6,000 sq. ft. and will consist of 1,500 sq. ft. of laser tag, play structure for children under 12, arts and crafts, structured play and gym classes. Daytime hours are 9:00 a.m. to 5:00 p.m.,

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and evening will be for competitive play, monitored by her partner/husband. During the weekends it will be converted to a party place. During the day it will be mostly for younger children. Parties will be by appointment on Sunday. Sundays from 6:00-10:00 p.m. will be for table tennis. It will be a membership club. They will have two part-time employees and herself as full time. Her husband will be there in the evening. The parties will be structured and supervised. Food will be catered. Mr. Martin asked about parking, and applicant acknowledged that it would be shared with Hoffman Flooring. He asked what happens if all the Hoffman Flooring parking is occupied, applicant's is occupied, and the caterer comes to deliver the pizza.

The matter was opened to the public, and June Valentine came forward and asked what laser tag was. Ms. Ham explained. Ms. Valentine was concerned that there is no stop sign, and there will be a problem in Summer with the Swim Club. James Valentine asked about the types of activities at the parties. Ms. Ham described the activities. Attorney Maloof, An attorney representing Hoffman Flooring as an interested party came forward. She will target people in the 15 mile radius around Westwood. It is a club, but you can pay \$6.00 for the play area for as long as you like. Laser tag is 20 minutes. There is no age group. A minimum age is seven for laser tag, and the charge is \$8.00. There will be six tables for table tennis. The table tennis is only available to children during the day.

Due to the lateness of the hour, 11:30 p.m., the matter was carried until 3/3/08.

**9. Park/Brian/GV Investment and Consulting - Proposed Subway** - Carried to 3/3/08;

**10. Paragon Federal Credit Union, Washington Avenue, Block 805, Lots 2 & 3 - Incomplete** - Carmine R. Alampi, Esq. represented First Westwood Realty in opposition. He requested that his representation be noted on the record and that he be added to any circulation list for documents to be copied to him. He contacted the applicant's counsel, Mr. Zen, who did not return his calls. He would get any documents from the applicant's attorney. Mr. Lydon gave Mr. Alampi his report. Mr. Alampi would receive Mr. Raimondi's report directly from him. The matter was carried to the next meeting.



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11. **Lynch, 117 Beech Street - Interpretation/Appeal -**  
Carried to 3/3/08;

12. **DISCUSSION:** Procedural Rules to be ready for next meeting;

13. **ADJOURNMENT** - On motions, made seconded and carried, the meeting was adjourned at approx. 11:30 p.m.

Respectfully submitted,

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MARY R. VERDUCCI, Paralegal  
Planning Board Secretary